

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

Dylan Staton,

Case No. 2:22-cv-01139-DJA

Plaintiff,

V.

Commissioner of Social Security,

Defendant.

ORDER

Before the Court is Plaintiff Dylan Staton's application to proceed *in forma pauperis* on appeal from the Social Security Commissioner's final decision. (ECF No. 1). Because the Court finds that Plaintiff has demonstrated an inability to prepay fees and costs or give security for them, it grants the application. The Court also finds that Plaintiff's complaint has met the basic requirements to satisfy screening. The Court finds these matters properly resolved without a hearing. LR 78-1.

I. Discussion.

A. The Court grants Plaintiff's in forma pauperis application.

Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees and costs or give security for them. Plaintiff is employed, but makes only \$500 per month, much of which goes towards rent that he splits with his family and his daily necessities. Plaintiff pays for his groceries with food stamps. Based on the financial information provided, the Court finds that Plaintiff is unable to pay an initial partial filing fee and grants the application to proceed *in forma pauperis*.

B. Plaintiff's complaint passes the Court's screening.

Plaintiff's complaint meets the basic requirements to pass screening. When a plaintiff seeks leave to file a civil case *in forma pauperis*, the court will screen the complaint. *See* 28 U.S.C. § 1915(e). For social security appeals, judges in this district consider four requirements

1 for complaints to satisfy screening. *See, e.g., Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev.
2 Jan. 26, 2015) (collecting cases). *See id.* First, the complaint must establish that administrative
3 remedies were exhausted under 42 U.S.C. § 405(g) and that the plaintiff filed the application
4 within 60 days after notice of the Social Security Commissioner’s final decision. *See id.* Second,
5 the complaint must indicate the judicial district in which the plaintiff resides. *See id.* Third, the
6 complaint must state the nature of the plaintiff’s disability and when the plaintiff claims to have
7 become disabled. *See id.* Fourth, the complaint must contain a plain, short, and concise
8 statement identifying the nature of the plaintiff’s disagreement with the determination made by
9 the Social Security Administration and show that the plaintiff is entitled to relief. *See id.*

10 Here, Plaintiff’s complaint satisfies all four requirements. First, the complaint attaches the
11 Appeals Council notice denying review on May 16, 2022, making the ALJ’s decision the final
12 decision of the Commissioner. Plaintiff filed an *in forma pauperis* application less than 60 days
13 later.¹ Second, Plaintiff claims to live in the jurisdictional boundaries of this Court. Third, the
14 complaint outlines the nature of Plaintiff’s disabilities, and the date Plaintiff became disabled.
15 Fourth, the complaint concisely states Plaintiff’s disagreement with the Social Security
16 Administration’s determination. Because Plaintiff’s complaint meets each of these requirements,
17 it satisfies screening.

18
19 **IT IS THEREFORE ORDERED** that Plaintiff’s application to proceed *in forma*
20 *pauperis* (ECF No. 1) is **granted** with the caveat that the fees shall be paid if recovery is made.
21 At this time, Plaintiff shall not be required to pay the filing fee.

22 **IT IS FURTHER ORDERED** that Plaintiff is permitted to maintain this action to
23 conclusion without the necessity of prepayment of any additional fees or costs or the giving of
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26 ¹ The Appeals Council notice provides that the sixty-day period begins the day after the plaintiff
27 receives the letter. (ECF No. 1-2 at 3). The Appeals Council assumes a plaintiff receives the
letter five days after the date listed on the letter unless the plaintiff shows they did not receive it
28 within that time. (ECF No. 1-2 at 3). Under the Appeals Council’s assumptions, Plaintiff
received the letter on May 21, 2022.

1 security therefor. The Order granting leave to proceed *in forma pauperis* shall not extend to the
2 issuance of subpoenas at government expense.

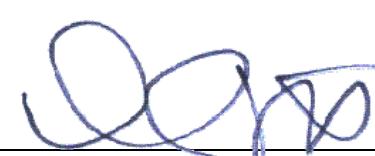
3 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to file the
4 complaint (ECF No. 1-1).

5 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to serve the
6 Commissioner of the Social Security Administration by sending a copy of the summons and
7 complaint by certified mail to: (1) Office of Regional Chief Counsel, Region IX, Social Security
8 Administration, 160 Spear St., Suite 800, San Francisco, California 94105-1545; and (2) the
9 Attorney General of the United States, Department of Justice, 950 Pennsylvania Avenue, N.W.,
10 Washington, D.C. 20530.

11 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to issue
12 summons to the United States Attorney for the District of Nevada and deliver the summons and
13 Complaint to the U.S. Marshal for service.

14 **IT IS FURTHER ORDERED** that from this point forward, Plaintiff shall serve upon
15 Defendant or, if appearance has been entered by counsel, upon the attorney, a copy of every
16 pleading, motion or other document submitted for consideration by the Court. Plaintiff shall
17 include with the original paper submitted for filing a certificate stating the date that a true and
18 correct copy of the document was personally served or sent by mail to the Defendant or counsel
19 for the Defendant. The court may disregard any paper received by a judge which has not been
20 filed with the clerk, and any paper received by a judge or the clerk which fails to include a
21 certificate of service.

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23 DATED: July 21, 2022



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25 DANIEL J. ALBREGTS
26 UNITED STATES MAGISTRATE JUDGE
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